

THE *Dan Smoot Report*

Vol. 14, No. 51 (Broadcast 695) December 16, 1968 Dallas, Texas



DAN SMOOT

DON'T LET THEM TAKE AWAY YOUR VOTE

Some states, and some counties in other states, have prohibited the use of punch card voting systems—because the systems have a dismal performance record both in gathering votes and in producing accurate results; they invite fraud, manipulation, ballot-box stuffing; they cannot guarantee the physical security of ballots; they cannot prevent voter errors which disenfranchise some voters, register multiple or incorrect votes for others.⁽¹⁾

Elsewhere, county officials have displayed a puzzling determination to spend taxpayers' money on discredited punch card voting systems.

Consider, for example, Missoula County, Montana. After extensive investigation, Frank Murray (Secretary of State and chief election officer of Montana) concluded that punch card voting multiplies opportunities for fraud and error. On June 1, 1966, he issued an order *prohibiting* the use of punch card voting systems in Montana.⁽²⁾

In 1967, Missoula County officials helped lobby through the Montana legislature a law *permitting* county commissioners to buy and use punch card systems.⁽³⁾

Commissioners of Missoula County obtained Votomatic equipment from IBM and used it for the first time in a school election in April, 1968. An editorial in the April 17, 1968, issue of *Western News*, Hamilton, Montana, reported that the system performed miserably and that it is "susceptible . . . [of] skullduggery."

Computers and punch card contraptions utterly wrecked the November, 1968, general elections in Missoula County—as related in this *Report* last week. Missoula County Commissioners whitewashed the monumental fiasco as "an unfortunate mishap."⁽⁴⁾

On November 15, 1968, Montana Secretary of State Frank Murray said:

THE DAN SMOOT REPORT is published weekly by The Dan Smoot Report, Inc., Box 9538, Dallas, Texas 75214 (office at 6441 Gaston Ave.). Subscriptions: \$18.00 for 2 years; \$10.00, 1 year; \$6.00, 6 months. Dan Smoot was born in Missouri, reared in Texas. With BA and MA degrees from SMU (1938 and 1940), he joined the Harvard faculty (1941) as a Teaching Fellow, doing graduate work in American civilization. From 1942 to 1951, he was an FBI agent; from 1951 to 1955, a commentator on national radio and television. In 1955, he started his present independent, free-enterprise business: publishing this REPORT and abbreviating it each week for radio and TV broadcasts available for commercial sponsorship by business firms.

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"I sincerely hope that a citizens' lawsuit will be filed . . . to outlaw this so-called punch card in order that the secret ballot and the intent of the voter be protected and tabulated."⁽⁴⁾

In Fulton and DeKalb Counties of Georgia, punch card voting made a wild scramble of the primary and general elections of 1966 (as related in this *Report* last week). In fact, the 1966 punch card elections in those two counties were so chaotic that the chairman of a Subcommittee on Elections of the U.S. House of Representatives threatened federal intervention to remove from state and local officials the authority to select voting equipment "if the integrity of balloting in future Federal elections is jeopardized by use of voting equipment with inherent capacity for error."⁽⁵⁾

But do county officials admit that *they* spent taxpayers' money on "voting equipment with inherent capacity for error"? Seldom. What can they do with punch card equipment they have already bought? They generally saddle their communities with unreliable equipment, while blaming someone else for its unreliability.

In Fulton County, Georgia, for example, county officials sold (for \$171,000) all of the county's old voting machines when purchasing 1225 Votomatics (for \$238,000). After the 1966 elections, they rejected as unreasonable the suggestion that the county go back to the machines it had used before—estimating that such a re-conversion would cost \$2.1 million.

When asked about the problems with punch card voting, Fulton County Manager Alan Kiepper and County Commissioner Chairman Jim Aldredge acknowledged that voters can easily invalidate or miscast their own votes and that punch cards themselves can foul up voting if they are not perfect.

But Kiepper and Aldredge blamed, not the system, but voters, and said the remedy is to train people in the use of punch cards. Voters must also learn, Mr. Kiepper said, to audit their

own punch card ballots after voting, to make sure that the hole numbers punched on the cards match the numbers assigned to candidates whom the voters intended to vote for. ⁽⁶⁾

Such an audit is quite beyond the capabilities of most voters. If every voter could, and did, audit his own card, the vaunted speed of punch card voting would decrease to a snail's pace; and punch card voting would become the slowest and most cumbersome kind of voting imaginable.

About half of all Californians appear to be stuck with punch card voting, because county officials rushed imprudently to spend taxpayers' money (\$9.5 million in Los Angeles County alone) on punch card equipment that no one knows what to do with now, unless it is used in elections.

The most peculiar of all punch card voting controversies has developed in Dallas.

In February, 1967, the Texas House of Representatives (by a vote of 94 to 42) defeated a bill to give counties authority to use punch card voting systems — because punch card voting "would mean moving the votes from the place where they were cast to a central spot for tabulation" and thus "would reopen the doors to election fraud."⁽⁷⁾

Later in 1967, the Texas legislature, reversing itself, passed a bill authorizing counties to use punch card voting systems. Dallas County Commissioners M. G. Price, Jim Tyson, and Frank Crowley were among the lobbyists for this new law.

These three Commissioners, overriding the strong objections of their colleague (County Judge W. L. Sterrett) and of the Dallas County Clerk (Tom Ellis), granted a \$260,400.00 provisional contract on July 2, 1968, to Datamedia Corporation for enough Vote-A-Corder machines to handle 112 Dallas County precincts in the November, 1968, general elections.

Datamedia presently has headquarters in Philadelphia (where it rents 1000 square feet of office

space and has a total of eight employees). The two principal officers (James Hall and Joseph Parry) are young men who worked for IBM prior to organizing Datamedia in 1965.

IBM holds basic patent rights on the Vote-A-Corder machine which Datamedia distributes. Datamedia does not manufacture the machines it sells, but subcontracts the manufacturing to others.

The provisional contract with Dallas County obligated Datamedia to ship equipment from Binghamton, New York (at that time, the corporation's headquarters) by September 1, 1968, all the machines to be "free from defect"; to provide for each voter at every polling place a manual on how to use the machines; to provide six company employees to help county officials handle the elections; and to tally all ballots cast on punch card machines by 2:00 a.m. following the closing of the polls. Datamedia Corporation was not required to post a performance bond, as the original county bid invitation had specified.

Datamedia failed to meet contractual obligations. The punch card system did not produce a tally of votes by 2:00 a.m., November 6th. It is doubtful that the system ever did produce a tally acceptable under Texas election laws. Manuals were not provided for voters. The punch card equipment was not shipped to Dallas by September 1, some of it being shipped more than 45 days late.⁽⁸⁾

Many of the Datamedia machines were not "free from defect." Some voters could not insert their punch card ballots into the machines properly. Others had much difficulty punching the cards after they were inserted. Some voters discovered that they had inadvertently put two or more ballot cards into the machines. Hundreds of ballots were so imperfectly punched that the computer could not handle them. These ballots had to be repunched by election officials and workers, guessing at the voters' intent. Other ballots were mutilated by the sorting machine and the computer.

Joseph Parry, executive vice president of Datamedia, acknowledged to a representative of this *Report* that some punch card machines undoubtedly malfunctioned while being used by voters because the machines were distributed to polling places without first being inspected by Datamedia experts. Parry said proper inspection of the assemblies was not made because "the machines didn't get here in time."

On election day, switchboards of Dallas newspapers and election headquarters were jammed with calls from irate voters complaining about the punch card machines. Public concern increased after polls closed and news of the chaos at the central processing center was broadcast.

But Datamedia Corporation had a contract which said Dallas County would keep and pay for the punch card machines if "a majority of the Dallas County Commissioners' Court" was "substantially satisfied." The majority—which had been angrily defending its decision to grant the contract—was *determined* to be substantially satisfied, no matter what the facts revealed or the people wanted.

There was a one-day state legislative committee hearing into the problem at Dallas on November 15, and another at Austin on November 22. No official action was taken. The matter was presented to a Dallas grand jury; and Judge Sterrett (who has been subjected to enormous pressures because of his unyielding opposition to the punch card system) testified, telling the jurors how unreliable the punch card system is.

When no action was taken by the grand jury, four Dallas taxpayers (three Democrat Party precinct chairmen and the director of the Dallas Crime Commission) filed suit in district court, asking for a temporary injunction to prevent the the County Commissioners from paying for the punch card machines. One of the four lawyers representing the Commissioners was State Senator Oscar Mauzy, previously an attorney for Datamedia. Senator Mauzy is serving his first term in the Texas Legislature which controls salaries and domains of district judges.

On December 3, 1968, a hearing on the suit was held in Dallas before visiting District Judge Louis Holland who disqualified witnesses critical of the punch card system, and ruled against the group seeking the injunction. The defeated taxpayers indicated they would appeal.

On December 5, the first payment (\$61,454.40) was due on Datamedia's bill. The balance was to be secured by Dallas County certificates of indebtedness, which, under the law, must be signed by County Judge L. W. Sterrett, County Clerk Tom Ellis, and County Auditor George Smith.⁽⁹⁾

Judge Sterrett said he would not sign certificates of indebtedness while litigation is pending. Sterrett's action was backed by County Auditor Smith (who asked for a legal opinion from the State's Attorney General), and by County Treasurer Warren G. Harding, who requested legal advice before signing a check for the initial payment to Datamedia.⁽⁹⁾

While the controversy swirled noisily, quiet negotiations were under way for the sale of Datamedia Corporation to Texas interests⁽¹⁰⁾ who, according to expert opinion given to this *Report*, will have no liability under Datamedia's service warranty obligation to Dallas County.

If the people of Dallas are stuck with this faulty voting system (and with the expense of having it foisted upon them), the determined folly of the Commissioners' Court will have accomplished, as Judge Sterrett says, "legalized plunder" of Dallas County taxpayers and voters.

Unless the people of the United States do whatever is necessary to guarantee the sanctity of the ballot, elections could become rigged, but expensive, rituals whose only real purpose is to deceive voters into believing they still govern themselves.

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FOOTNOTES

- (1) *The* (Charlotte, North Carolina) *News and Observer*, June 4, 1965; *The Atlanta Constitution*, Dec. 29, 1966; *The Milwaukee Journal*, June 10, 1967; (Meridian, Mississippi) *Star*, Dec. 4, 1967
- (2) Report issued at Helena, Montana, on June 1, 1966, by Frank Murray, Montana Secretary of State
- (3) Information supplied by telephone (Nov. 26, 1968) by Gail De Watt, Chief Deputy to Montana Secretary of State Frank Murray
- (4) *The Missoulian*, Nov. 9, 1968; *The* (Butte) *Montana Standard*, Nov. 17, 1968
- (5) Letter by U.S. Rep. Robert T. Ashmore, Chairman of the Subcommittee on Elections of the U.S. House of Representatives, May 25, 1967
- (6) *The Atlanta Journal*, Nov. 2, 1966
- (7) *San Antonio Light*, Feb. 19, 1967
- (8) Article by John Geddie, *The Dallas Morning News*, Nov. 28, 1968, p. A7
- (9) Article by Ben Stevens, *The Dallas Times Herald*, Dec. 5, 1968, pp. A1, 9
- (10) "Proceedings; [Dallas County] Commissioners' Court," Elizabeth Robinson, Official Reporter, Nov. 25, 1968, 49 pp.

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